



2822

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

TAKAHARU KONDO, et al.

Application No.: 10/092,617

Filed: March 8, 2002

For: SEMICONDUCTOR ELEMENT,
AND METHOD OF FORMING
SILICON-BASED FILM

Examiner: M. Prenty

Group Art Unit: 2822

January 22, 2003

Commissioner for Patents
Washington, D.C. 20231

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RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In response to the Restriction Requirement dated December 31, 2002 (Paper No. 6), Applicants hereby provisionally elect to prosecute the Group I claims, namely Claims 1 to 24 and 46 to 69. The Restriction Requirement is, however, traversed.

In more detail, the Restriction Requirement was entered pursuant to the guidelines of MPEP § 806.05(f), which permits restriction between a process of making and a product made if it can be shown that the product, as claimed, can be made by another process that differs materially from that claimed. Here, nearly all of the features recited in the process of the Group II claims are similar to those features found in the product of the Group I claims. In view of this near identity of features, it is respectfully submitted that it is not possible that the product of the Group I claims could be made by another process that "differs materially" from the Group II claims, which is the standard set by MPEP § 806.05(f). It should be understood that Applicants are not saying that the Group I device could not be

made by a process that differs somewhat from the Group II claims; Applicants are merely saying that such a process would not differ "materially" as that term is used in connection with the USPTO's restriction practice.

The Examiner gives the example of "forming a polycrystalline silicon film of varying orientation and then rendering it microcrystalline." Applicants submit that this example is not a process that "differs materially" from the process of the Group II claims, since this example is covered by the literal language of the Group II claims. Claim 25 broadly recites formation of the film so that the orientation property of the microcrystal changes in a film thickness direction; Claim 25 does not specify when the film is rendered microcrystalline. Thus, the example provided by the Examiner is believed to fall within the literal scope of Claim 25 and others of the Group II claims.

Accordingly, reconsideration and withdrawal of the Restriction Requirement are respectfully requested.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office by telephone at (714) 540-8700. All correspondence should continue to be directed to our address given below.

Respectfully submitted,



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